THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.9837 of 2007

Dated:30.08.2007

Between:

Urban Huts and Slum Dwellers Development Association.

…Petitioner

and

The District Collector, Hyderabad District,
and others.

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.9837 of 2007

ORDER:

Urban Huts and Slum Dwellers Development Association is the petitioner in this case. The said Association seeks a writ of mandamus declaring the action of the respondents in trying to demolish the houses and dispossess its members from the land in Survey Nos.65 to 77, 82, 122 and 123 (part) situated at Saidabad Village and Mandal in Hyderabad District without following due process of law as illegal and arbitrary. A consequential order is also sought directing the respondents to consider the application of the petitioner for regularization of the occupation.

In the affidavit filed by the President of the petitioner-Association it is alleged that there are more than 5000 persons residing in the land comprised in various survey numbers referred to hereinabove for more than thirty years. All the members of the petitioner-Association are homeless persons and they also raised small structures, obtained ration cards, electricity connection and are residing there. After the Government issued orders in G.O.Ms.No.515, dated 19.04.2003, the members of the petitioner-Association made applications on 12.11.2003 to the first respondent seeking regularization, which are

pending. In the meanwhile, at the instance of the petitioner, the first respondent addressed the Commissioner, Municipal Corporation of Hyderabad and the Managing Director of Hyderabad Metropolitan Water Works and Sewerage Board to provide civil amenities to the petitioner. The area is served by city bus, and Temples, Churches and Mosques have also come up.

It is the further case of the petitioner that on 09.02.2005 there was a major fire accident and all the huts raised by the members of the petitioner were gutted. The political leaders who visited the area promised to take necessary steps to provide permanent houses. Socio-economic survey was conducted and 3024 persons were found to be eligible for allotment of houses. Pursuant to such survey, houses were constructed under Valmiki Ambedkar Awaz Yojana (VAMBAY) scheme and 1792 persons were accommodated in the apartment blocks of 1+3 in an extent of Acs.7.00. They were also given possession. Some of the persons could not get, but in April 2007, the respondents came with local Police and tried to dispossess the members of the petitioner-Association.

The Tahasildar, Saidabad, as well as the fifth respondent, who is impleaded subsequently, filed counter affidavits opposing the Writ Petition. In her counter affidavit the Tahasildar states that the subject land was owned by M/s.Mohiuddin, J.P.Singh. There were five tenants. The land was declared under the Urban Land (Ceiling and Regulation) Act 1976 (for short 'the Act'), in C.C.Nos.J/2972/76 etc. By order dated 17.09.1990 the declarants were found to be surplus land holders. Roudri Society and Industries Department Employees House Building Society entered into agreement of sale in 1981 and they filed application under Section 20(1)(b) of the Act seeking exemption as per G.O.Ms.No.455, dated 09.07.2002. The Government passed orders in G.O.Ms.Nos.457 and 458, dated 24.03.2003, in favour of the two societies. The regularization in favour of the petitioner was not done, as the same is pending in W.A.No.341 of 2005.

The fifth respondent in its affidavit states that there is no Government property in Survey Nos.65 to 77, 123 (part) and 125 (part), of Saidabad Village and Mandal, and that the land was purchased by the fifth respondent on 05.04.1981, and the same was allotted in G.O.Ms.No.458, dated 24.0.2003. It is further stated that M/s.Hyderabad Dalitha Samkshema Sangham, Rashtra Dalitha Seva Sangham, Banjara Yuvajana Sangham filed similar Writ Petitions and

they were dismissed by this Court. The other allegations made by the petitioner are denied.

The Tahasildar filed counter affidavit on 23.06.2007 and the implead petition along with affidavit of the fifth respondent was served on the learned Counsel for the petitioner on 08.06.2007. Despite the same, reply affidavit is not filed. Be that as it is, even according to the petitioner, when large number of huts were gutted in the fire accident, the Government constructed houses under VAMBAY scheme and allotted to 1792 persons. If the members of the petitioner were also identified to be eligible for such allotment, they have to approach the Government for allotment of suitable land for construction of houses under the said scheme. They cannot, however, seek any remedy before this Court against the fifth respondent in whose favour the Government has already allotted the land under Section 20(1)(b) of the Act. Learned Counsel for the fifth respondent submits that necessary action is being taken against the encroachers, and the remedy of Writ Petition is not proper against the fifth respondent. This Court finds force in the submission. It is needless to mention that when the land is a private land, the petitioner cannot approach this Court and seek a remedy. Indeed, that it is not a Government land is also admitted by the Tahasildar.

The Writ Petition is misconceived, and the same is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

30.08.2007
vs